

REMARKS

Claims 1 - 8 have been rejected as reciting subject matter obvious over certain teachings contained in the Heyne patent in view of the Japanese publication. This rejection is based upon an allegation that the Heyne patent teaches all features claimed except for the “guard being transparent”. It is further alleged that the Japanese publication teaches a guard of transparent glass and plastic. These two allegations are combined by the Examiner to allege that it would be obvious to substitute the guard of Heyne with the transparent guard discussed in the abstract of the Japanese publication. For reasons set forth below, it is believed that remaining claims 1-3 and 7 recite the subject matter not obvious over the proposed combination of teachings.

Claim 1 has been amended to more particularly point out and distinctly claim the invention. In particular, paragraph (e) has been added to recite that the guard is of shatter-resistant plastic material and paragraph (f) has been added to recite that the guard has a height greater than the height of the lower edge of the sight field of the operator.

Necessarily the Heyne guard is not vertically intrusive into the sight field of the operator because such intrusion would compromise the viewability by the operator of the work being done by the backhoe (or such other implement as may be attached to the boom). Thus, the Heyne guard must inherently be below the lower edge of the sight field as would be necessary for the operator to perform his/her function. The Japanese publication recites in the abstract that the transparent guard is a lamination of glass and plastic with some type of transparent sheet material therebetween (as illustrated).

Were one to substitute the non-transparent Heyne guard with a guard constructed as

taught in the Japanese publication, as suggested by the Examiner, one would end up with a transparent laminate of glass and plastic that would not extend upwardly into the sight field of the operator. Such structure would be distinct from and would not serve the purpose of the present invention, as recited in claim 1. Accordingly, withdrawal of the rejection of claim 1 based upon obviousness is respectfully requested.

With the allowance of claim 1, remaining claims 2, 3 and 7, depending directly or indirectly from claim 1, are also allowable. The remaining claims have been canceled.

In view of the amendments to the claims to more particularly point out and distinctly claim the invention, the discussion of the teachings in the two references relied upon by the Examiner and the correlation of such prior art teachings with the subject matter now recited in claim 1, it is believed that the application is in condition for allowance, which allowance is respectfully requested.

Respectfully submitted,

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